

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6843

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL EDWARD MILLS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, District Judge. (CR-93-132; CA-05-256)

Submitted: August 18, 2005

Decided: August 26, 2005

Before WIDENER, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Edward Mills, Appellant Pro Se. N. George Metcalf, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Michael Edward Mills seeks to appeal the district court's order denying relief on his motion filed pursuant to Fed. R. Civ. P. 60(b), seeking reconsideration of the denial of his 28 U.S.C. § 2255 (2000) motion. Because Mills' motion did not assert a defect in the collateral review process itself, but rather reargued the merits of his § 2255 motion based on new case law, the motion was properly characterized a successive § 2255 motion under our decision in United States v. Winestock, 340 F.3d 200, 207 (4th Cir. 2003). To appeal an order denying a Rule 60(b) motion in a habeas action, Mills must establish entitlement to a certificate of appealability. See Reid v. Angelone, 369 F.3d 363, 368 (4th Cir. 2004).

A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Mills has not made the requisite showing.

Accordingly, we deny a certificate of appealability and dismiss the appeal.

To the extent that Mills' notice of appeal and informal brief could be construed as a motion for authorization to file a successive § 2255 motion, we deny such authorization. See Winestock, 340 F.3d at 208. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED